

House Bill 1264

By: Representatives Fludd of the 66<sup>th</sup> and Mosby of the 90<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 48 and 36 of the Official Code of Georgia Annotated, relating respectively  
2 to revenue and taxation and local government, so as to provide for comprehensive tax  
3 reform; to provide for a short title; to provide for additional requirements with respect to  
4 certain annual reports; to provide for an ad valorem tax exemption for all tangible personal  
5 property constituting the inventory of a business; to revise and change individual income tax  
6 rates and tables; to provide for annual adjustments with respect to certain standard  
7 deductions; to provide for an income tax credit with respect to ad valorem tax expenses; to  
8 define a term; to provide for conditions and limitations; to change the definition of a retail  
9 sale with respect to sales and use taxes to include certain consumer services; to provide for  
10 an exemption from sales and use tax with respect to the sale or use of natural or artificial gas,  
11 #2 fuel oil, #6 fuel oil, propane, and coal used directly or indirectly in the manufacture or  
12 processing of tangible personal property primarily for resale and the fuel cost recovery  
13 component of retail electric rates used directly or indirectly in the manufacture or processing  
14 of tangible personal property primarily for resale; to increase the amount of the excise tax  
15 on tobacco products with respect to cigarettes; to provide for the elimination of 50 percent  
16 of ad valorem property taxes on motor vehicles; to provide for motor vehicle tax relief  
17 grants; to provide for definitions; to provide for procedures, conditions, and limitations; to  
18 provide for powers, duties, and authority of the state revenue commissioner; to provide for  
19 effective dates and applicability; to provide for related matters; to repeal conflicting laws;  
20 and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 This Act shall be known and may be cited as the "Better Economy Through Tax Equity  
24 Reform (BETTER) Plan."

**SECTION 2.**

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended in Code Section 48-2-7, relating to duties and powers of the state revenue commissioner, by revising paragraph (5) of subsection (a) as follows:

"(5) Submit to the Governor and to each regular session of the General Assembly an annual report of the conduct of his or her office. The commissioner shall not be required to distribute copies of the annual report to the members of the General Assembly but shall notify the members of the availability of the annual report in the manner which he or she deems to be most effective and efficient. As the chief revenue official of the state, he or she shall advise the Governor and the General Assembly on all matters relating to revenue. Such report shall include a cost-benefit analysis of all sales and use tax, property tax, and income tax exemptions or credits granted under this title."

**SECTION 3.**

Said title is further amended by adding a new Code section to read as follows:

"48-5-41.2.

All tangible personal property constituting the inventory of a business shall be exempt from all ad valorem taxation."

**SECTION 4.**

Said title is further amended in Code Section 48-7-20, relating to individual income tax rates and tax tables, by revising paragraph (1) of subsection (b) as follows:

"(b)(1) The tax imposed pursuant to subsection (a) of this Code section shall be computed in accordance with the following tables:

(A) For the taxable years beginning prior to January 1, 2009:

**SINGLE PERSON**

If Georgia Taxable

The Tax Is:

Net Income Is:

Not over \$750.00.....	1%
Over \$750.00 but not over \$2,250.00. ....	\$7.50 plus 2% of amount over \$750.00
Over \$2,250.00 but not over \$3,750.00.....	\$37.50 plus 3% of amount over \$2,250.00
Over \$3,750.00 but not over \$5,250.00.....	\$82.50 plus 4% of amount over \$3,750.00
Over \$5,250.00 but not over \$7,000.00.....	\$142.50 plus 5% of amount over \$5,250.00

Over \$7,000.00. . . . . \$230.00 plus 6% of amount over  
\$7,000.00

## MARRIED PERSON FILING A SEPARATE RETURN

If Georgia Taxable

The Tax Is:

Net Income Is:

Not over \$500.00. . . . . 1%  
Over \$500.00 but not over \$1,500.00. . . . . \$5.00 plus 2% of amount over \$500.00  
Over \$1,500.00 but not over \$2,500.00. . . . . \$25.00 plus 3% of amount over  
\$1,500.00  
Over \$2,500.00 but not over \$3,500.00. . . . . \$55.00 plus 4% of amount over  
\$2,500.00  
Over \$3,500.00 but not over \$5,000.00. . . . . \$95.00 plus 5% of amount over  
\$3,500.00  
Over \$5,000.00. . . . . \$170.00 plus 6% of amount over  
\$5,000.00

## HEAD OF HOUSEHOLD AND MARRIED PERSONS FILING A JOINT RETURN

If Georgia Taxable

The Tax Is:

Net Income Is:

Not over \$1,000.00. . . . . 1%  
Over \$1,000.00 but not over \$3,000.00. . . . . \$10.00 plus 2% of amount over  
\$1,000.00  
Over \$3,000.00 but not over \$5,000.00. . . . . \$50.00 plus 3% of amount over  
\$3,000.00  
Over \$5,000.00 but not over \$7,000.00. . . . . \$110.00 plus 4% of amount over  
\$5,000.00  
Over \$7,000.00 but not over \$10,000.00. . . . . \$190.00 plus 5% of amount over  
\$7,000.00  
Over \$10,000.00. . . . . \$340.00 plus 6% of amount over  
\$10,000.00

(B) For the taxable years beginning on or after January 1, 2009:

SINGLE PERSON

If Georgia Taxable

The Tax Is:

Net Income Is:

Not over \$2,500.00. . . . . 1%

Over \$2,500.00 but not over \$3,750.00. . . . . \$25.00 plus 3% of amount over \$2,500.00

Over \$3,750.00 but not over \$7,000.00. . . . . \$62.50 plus 4% of amount over \$3,750.00

Over \$7,000.00 but not over \$35,000.00. . . . . \$192.50 plus 5.84% of amount over \$7,000.00

Over \$35,000.00. . . . . \$1,827.70 plus 7% of amount over \$35,000.00

MARRIED PERSON FILING A SEPARATE RETURN

If Georgia Taxable

The Tax Is:

Net Income Is:

Not over \$2,500.00. . . . . 1%

Over \$2,500.00 but not over \$3,750.00. . . . . \$25.00 plus 3% of amount over \$2,500.00

Over \$3,750.00 but not over \$7,000.00. . . . . \$62.50 plus 4% of amount over \$3,750.00

Over \$7,000.00 but not over \$35,000.00. . . . . \$192.50 plus 5.84% of amount over \$7,000.00

Over \$35,000.00. . . . . \$1,827.70 plus 7% of amount over \$35,000.00

HEAD OF HOUSEHOLD AND MARRIED PERSONS

FILING A JOINT RETURN

If Georgia Taxable

The Tax Is:

Net Income Is:

Not over \$5,000.00. . . . . 1%

Over \$5,000.00 but not over \$7,500.00. . . . . \$50.00 plus 3% of amount over \$5,000.00

1	<u>Over \$7,500.00 but not over \$14,000.00.. . . \$125.00 plus 4% of amount over</u> <u>\$7,500.00</u>
2	<u>Over \$14,000.00 but not over \$70,000.00.. . . \$385.00 plus 5.84% of amount over</u> <u>\$14,000.00</u>
3	<u>Over \$70,000.00. . . . . \$3,655.40 plus 7% of amount over</u> <u>\$70,000.00"</u>

4 **SECTION 5.**

5 Said title is further amended in Code Section 48-7-27, relating to computation of taxable net  
6 income, by revising paragraph (1) of subsection (a) as follows:

7 "(1) Either the sum of all itemized nonbusiness deductions used in computing federal  
8 taxable income if the taxpayer used itemized nonbusiness deductions in computing  
9 federal taxable income or, if the taxpayer could not or did not itemize nonbusiness  
10 deductions, then a standard deduction as provided for in the following subparagraphs:

11 (A) In the case of a single taxpayer or a head of household, \$2,300.00;

12 (B) In the case of a married taxpayer filing a separate return, \$1,500.00;

13 (C) In the case of a married couple filing a joint return, \$3,000.00;

14 (D) An additional deduction of \$1,300.00 for the taxpayer if the taxpayer has attained  
15 the age of 65 before the close of the taxpayer's taxable year. An additional deduction  
16 of \$1,300.00 for the spouse of the taxpayer shall be allowed if a joint return is made by  
17 the taxpayer and the taxpayer's spouse and the spouse has attained the age of 65 before  
18 the close of the taxable year; and

19 (E) An additional deduction of \$1,300.00 for the taxpayer if the taxpayer is blind at the  
20 close of the taxable year. An additional deduction of \$1,300.00 for the spouse of the  
21 taxpayer shall be allowed if a joint return is made by the taxpayer and the taxpayer's  
22 spouse and the spouse is blind at the close of the taxable year. For the purposes of this  
23 subparagraph, the determination of whether the taxpayer or the spouse is blind shall be  
24 made at the close of the taxable year except that, if either the taxpayer or the spouse  
25 dies during the taxable year, the determination shall be made as of the time of the death.

26 For taxable years beginning on or after January 1, 2009, the standard deduction amounts  
27 enumerated in subparagraphs (A) through (E) of this paragraph shall be annually adjusted  
28 by the commissioner to reflect the effect of economic inflation or deflation on individual  
29 taxpayers, and, for such purpose, the commissioner may use the Consumer Price Index  
30 as reported by the Bureau of Labor Statistics of the United States Department of Labor  
31 or any other similar index established by the federal government if the commissioner

1 determines that such federal index reflects the effects of inflation and deflation on  
2 taxpayers;"

### 3 **SECTION 6.**

4 Said title is further amended by adding a new Code section to read as follows:

5 "48-7-29.13.

6 (a) As used in this Code section, the term 'ad valorem tax expense' means the expenditure  
7 of funds by the taxpayer for the payment of such taxpayer's state and local ad valorem  
8 taxes on real and personal property in the tax year for which the credit under this Code  
9 section is claimed and allowed.

10 (b) A taxpayer whose Georgia taxable net income does not exceed \$45,000.00 shall be  
11 allowed a credit against the tax imposed by Code Section 48-7-20 for ad valorem tax  
12 expenses in an amount not to exceed 3.5 percent of such taxpayer's Georgia taxable net  
13 income.

14 (c) In no event shall the total amount of the tax credit under this Code section for a taxable  
15 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the  
16 taxpayer against succeeding years' tax liabilities. No such tax credit shall be allowed the  
17 taxpayer against prior years' tax liabilities.

18 (d) The commissioner shall be authorized to promulgate any rules and regulations  
19 necessary to implement and administer the provisions of this Code section."

### 20 **SECTION 7.**

21 Said title is further amended in Code Section 48-8-2, relating to definitions regarding sales  
22 and use taxes, by revising paragraph (6) by deleting "or" at the end of subparagraph (F),  
23 replacing the period at the end of subparagraph (G) with "; or", and adding a new  
24 subparagraph to read as follows:

25 "(H) Sales of or charges made for the following services:

- 26 (i) Towing of motor vehicles;
- 27 (ii) Docking of watercraft or landing of aircraft;
- 28 (iii) Repair or alteration of apparel or shoes;
- 29 (iv) Interstate long distance telephone calls;
- 30 (v) Repair of watches or jewelry;
- 31 (vi) Maintenance or repair of motor vehicles;
- 32 (vii) Cable or satellite television;
- 33 (viii) Landscaping or lawn care; or
- 34 (ix) Club membership fees or dues."

**SECTION 8.**

Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and use taxes, by adding a new paragraph to read as follows:

"(70.1) The sale of natural or artificial gas, #2 fuel oil, #6 fuel oil, propane, and coal used directly or indirectly in the manufacture or processing of tangible personal property primarily for resale and the fuel cost recovery component of retail electric rates used directly or indirectly in the manufacture or processing of tangible personal property primarily for resale;"

**SECTION 9.**

Said title is further amended in Code Section 48-11-2, relating to the excise tax on tobacco products, by revising subsection (a) as follows:

"(a) An excise tax, in addition to all other taxes of every kind imposed by law, is imposed upon the sale, receipt, purchase, possession, consumption, handling, distribution, or use of cigars, cigarettes, and loose or smokeless tobacco in this state at the following rates:

(1) Little cigars weighing not more than three pounds per thousand: two and one-half mills each;

(2) All other cigars: 23 percent of the wholesale cost price, exclusive of any trade, cash, or other discounts or any promotion, advertising, display, or similar allowances;

(3) Cigarettes: ~~37¢~~ \$1.37 per pack of 20 cigarettes and a like rate, pro rata, for other size packages; and

(4) Loose or smokeless tobacco: 10 percent of the wholesale cost price, exclusive of any trade, cash, or other discounts or any promotion, advertising, display, or similar allowances."

**SECTION 10.**

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by adding a new chapter to read as follows:

**"CHAPTER 89A**

36-89A-1.

As used in this chapter, the term:

(1) 'County millage rate' means the net ad valorem tax millage rate levied by a county for county purposes and applying to qualified motor vehicles in the county, including any millage levied for those special districts reported on the 2004 ad valorem tax digest certified to and received by the state revenue commissioner on or before December 31, 2004, but not including any millage levied for purposes of bonded indebtedness and not

1 including any millage levied on behalf of a county school district for educational  
2 purposes.

3 (2) 'Eligible assessed value' means a certain stated amount of the assessed value of each  
4 motor vehicle in this state to which the tax relief grant under this chapter shall be  
5 applicable. The assessed value of motor vehicles shall be determined pursuant to the  
6 uniform evaluation of motor vehicles prepared pursuant to Code Section 48-5-442.

7 (3) 'Fiscal authority' means the individual authorized to collect ad valorem taxes for a  
8 county or municipality which levies ad valorem taxes.

9 (4) 'Municipal millage rate' means the net ad valorem tax millage rate levied by a  
10 municipality for municipal purposes and applying to qualified motor vehicles in the  
11 municipality, including any millage levied for those special tax districts reported on the  
12 2004 City and Independent School Millage Rate Certification certified to and received  
13 by the state revenue commissioner on or before December 31, 2004, but not including  
14 any millage levied for purposes of bonded indebtedness and not including any millage  
15 levied on behalf of an independent school district for educational purposes.

16 (5) 'School millage rate' means the net ad valorem tax millage rate levied on behalf of a  
17 county or independent school district for educational purposes and applying to qualified  
18 motor vehicles in the county or independent school district, not including any millage  
19 levied for purposes of bonded indebtedness and not including any millage levied for  
20 county or municipal purposes.

21 (6) 'State millage rate' means the state millage levy.

22 36-89A-2.

23 Each year, the General Assembly shall appropriate funds for motor vehicle tax relief grants  
24 to counties, municipalities, and county or independent school districts pursuant to and in  
25 furtherance of the provisions of Article VII, Section IIB, Paragraph I of the Constitution.

26 36-89A-3.

27 (a) Each year, the General Assembly shall appropriate to the Department of Revenue funds  
28 to provide motor vehicle tax relief grants to counties, municipalities, and county or  
29 independent school districts. The General Appropriations Act shall specify the amount  
30 appropriated which shall be sufficient for each 12 month period so that each taxpayer  
31 receives a credit in an amount equal to 50 percent of the eligible assessed value of each  
32 motor vehicle.

33 (b) If for any reason the amount appropriated in the General Appropriations Act is  
34 insufficient to fund the eligible assessed value stated in the General Appropriations Act,



1 the amount appropriated may be adjusted in amendments to the General Appropriations  
2 Act.

3 36-89A-4.

4 (a)(1) Pursuant to the appropriation of funds as provided in Code Section 36-89A-3, such  
5 grants shall each month be allotted to each county, municipality, and county or  
6 independent school district in this state as follows:

7 (A) Immediately following the actual preparation of ad valorem property tax bills, each  
8 county fiscal authority shall notify the Department of Revenue of the total amount of  
9 tax revenue which would be generated by applying the sum of the state and county  
10 millage rates to the eligible assessed value of each motor vehicle in the county. The  
11 total amount of actual tax credits, so calculated, given to all motor vehicles in the  
12 county shall be the amount of the grant to that county;

13 (B) Immediately following the actual preparation of ad valorem property tax bills, each  
14 county or independent school district's fiscal authority shall notify the Department of  
15 Revenue of the total amount of tax revenue which would be generated by applying the  
16 school millage rate to the eligible assessed value of each motor vehicle in the county  
17 or independent school district. The total amount of actual tax credits, so calculated,  
18 given to all motor vehicles in the county or independent school district shall be the  
19 amount of the grant to that county or independent school district; and

20 (C) Immediately following the actual preparation of ad valorem property tax bills, each  
21 municipality's fiscal authority shall notify the Department of Revenue of the total  
22 amount of tax revenue which would be generated by applying the municipal millage  
23 rate to the eligible assessed value of each motor vehicle in the municipality. The total  
24 amount of actual tax credits, so calculated, given to all motor vehicles in the  
25 municipality shall be the amount of the grant to that municipality.

26 (2) Credit amounts computed under paragraph (1) of this subsection shall be applied to  
27 reduce the otherwise applicable tax liability on a dollar-for-dollar basis, but the credit  
28 granted shall not in any case exceed the amount of the otherwise applicable tax liability.

29 (b) The grant of funds to each county shall be conditioned on the county's fiscal authority  
30 reducing each motor vehicle's otherwise applicable liability for county taxes for county  
31 purposes by a credit amount calculated in subparagraph (a)(1)(A) of this Code section.

32 (c) The grant of funds to each county or independent school district shall be conditioned  
33 on the county or independent school district's fiscal authority reducing each motor  
34 vehicle's otherwise applicable liability for school taxes by a credit amount calculated in  
35 subparagraph (a)(1)(B) of this Code section.

(d) The grant of funds to each municipality shall be conditioned on the municipality's fiscal authority reducing each motor vehicle's otherwise applicable liability for municipal taxes by a credit amount calculated in subparagraph (a)(1)(C) of this Code section.

(e) Each fiscal authority shall show the credit amount on the tax bill, together with a prominent notice in substantially the following form: 'This reduction in your bill is the result of motor vehicle tax relief enacted by the Governor and the General Assembly of the State of Georgia.'

36-89A-5.

(a) The state revenue commissioner shall administer this chapter and shall adopt rules and regulations for the administration of this chapter, including specific instructions to local governments. The state revenue commissioner may adopt procedures for partial or installment distribution of grants when the commissioner determines that a full distribution will only result in the necessity of return of funds under subsection (b) of this Code section.

(b) If any excess funds remain from the funds granted to any county, municipality, or county or independent school district under this chapter, after the county, municipality, or county or independent school district complies with the credit requirements of Code Section 38-89A-4, such excess funds shall be returned by the county, municipality, or county or independent school district to the Department of Revenue.

36-89A-6.

Any credit under this chapter which is erroneously or illegally granted shall be recoverable by the political subdivision granting such credit in the same manner as any other delinquent tax."

## SECTION 11.

(a) Except as otherwise provided in this section, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

(b) Unless prohibited by the federal Voting Rights Act of 1965, as amended, the Secretary of State shall call and conduct an election as provided in this section for the purpose of submitting Section 3 of this Act to the electors of the State of Georgia for approval or rejection. The Secretary of State shall conduct that election on the date of the November, 2008, state-wide general election. The Secretary of State shall issue the call and conduct that special election as provided by general law. The Secretary of State shall cause the date and purpose of the special election to be published in the official organ of each county in the state once a week for two weeks immediately preceding the date of the referendum. The ballot shall have written thereon the following:

1     "( ) YES   Shall the Act be approved which grants an exemption from ad valorem  
2     ( ) NO    taxation on inventory of a business?"

3   All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring  
4   to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on  
5   such question are for approval of the Act, then Section 3 of this Act shall become effective  
6   on January 1, 2009, and shall apply to all taxable years beginning on or after that date. If  
7   Section 3 of this Act is not so approved or if the election is not conducted as provided in this  
8   section, Section 3 of this Act shall not become effective and Section 3 of this Act shall be  
9   automatically repealed on the first day of January immediately following that election date.

10  (c) Section 4 of this Act shall become effective January 1, 2009.

11  (d) Sections 5 and 6 of this Act shall become effective on January 1, 2009, and shall be  
12  applicable to all taxable years beginning on or after January 1, 2009.

13  (e) Sections 7, 8, and 9 of this Act shall become effective on July 1, 2008.

14  (f) Section 10 of this Act shall become effective on January 1, 2009; provided, however, that  
15  Section 10 this Act shall only become effective on January 1, 2009, upon the ratification of  
16  a resolution at the November, 2008, state-wide general election, which resolution amends the  
17  Constitution so as to authorize motor vehicle tax relief grants and require appropriations to  
18  fund such grants. If such resolution is not so ratified, Section 10 of this Act shall not become  
19  effective and shall stand repealed in its entirety on January 1, 2009.

## 20                                   **SECTION 12.**

21  All laws and parts of laws in conflict with this Act are repealed.